ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement") is made and entered into this ____ day of _________________, 2001, by and between **David W. Fleming Revocable Trust**, hereinafter referred to as "Owner," and the **City of Lincoln, Nebraska**, a municipal corporation, hereinafter referred to as "City."

RECITALS

A. Owner has requested that the City annex Lot 45 I.T., located in Section 23, Township 9 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, hereinafter referred to as the "Property."

B. Pursuant to the Conditional Annexation and Zoning Agreement for Yankee Hill Road Vicinity (Yankee Hill Agreement), the City and the developers of Wilderness Ridge constructed certain sanitary sewer trunk lines (hereinafter South Salt Creek Trunk Sewer) to sewer 725 acres of land within the preliminary plat of Wilderness Ridge Addition. Said South Salt Creek Trunk Sewer can also sewer 312 acres of land outside of the boundaries of the preliminary plat for Wilderness Ridge, including the Property.

C. In the Yankee Hill Agreement, the City agreed to charge owners of land outside the boundaries of the preliminary plat for Wilderness Ridge Addition who benefit from the extension of the South Salt Creek Trunk Sewer into an entirely new area, including the Property, a fair share of the cost of the South Salt Creek Trunk Sewer based upon a per-acre formula or some other fair share formula approved by the City.

D. City is willing to annex the Property as requested by Owner, provided Owner agrees to contribute $502.00 as Owner's fair share of the cost to construct the South Salt Creek Trunk Sewer which sewers the Property based upon a cost of $351.25 per acre times the 1.43 acres being annexed.

E. Pursuant to the Yankee Hill Agreement, the City and the developers of Wilderness Ridge constructed an approximately 3,500 linear foot 24-inch water main in South 14th Street and Yankee Hill Road to provide water to the land included within the preliminary plat of Wilderness Ridge Addition. Said 24-inch water main can also provide water to land outside of the boundaries of the preliminary plat for Wilderness Ridge, including the Property.

F. In the Yankee Hill Agreement, the City agreed to charge owners of land outside the boundaries of the preliminary plat for Wilderness Ridge Addition who benefit from the extension of the 24-inch water into an entirely new area, including the Property, a fair share of the cost of the 24-inch water based upon the total costs of constructing a typical 6-inch water line abutting a residential area and/or based upon the total cost of constructing a typical 8-inch water line abutting a commercial area..

G. The City is willing to annex the Property and rezone the Property as requested provided that Owner agrees to contribute toward the construction of the 24-inch water main in South 14th Street and Yankee Hill Road the cost of a 6-inch equivalent main along residential frontage and/or the cost of an 8-inch equivalent main along commercial frontage.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties do agree as follows:

1. Annexation by the City. The City agrees to annex the Property.

2. Sewer Main Extension. Owner understands and acknowledges that the Property was made sewerable by the construction of the South Salt Creek Trunk Sewer pursuant to the Yankee Hill Agreement and that Owner did not participate in, nor contribute Owner's fair share of the cost of the construction of the South Salt Creek Trunk Sewer to serve the Property. Owner desires to be connected to the South Salt Creek Trunk Sewer and therefore agrees to pay at the time of annexation a connection fee of $351.25 per acre times 1.43 acres for a total connection fee of $502.00.

Owner understands and acknowledges that the South Salt Creek Trunk Sewer which crosses the west side of the Property is a non-tapable 48" sanitary sewer main. Owner further understands and acknowledges that a tapable sewer main extension will have to be constructed at a manhole in this sewer main and an 8 inch sewer main will have to be constructed from the tap to provide sewer service to the property at Owner's sole cost and expense in addition to the above-described South Salt Creek Trunk sewer extension fee to be paid by Owner.

3. 24-Inch Water Main in South 14th and Yankee Hill Road. Owner understands and acknowledges that the Property was made waterable by the construction of the 24-inch water main in South 14th Street and Yankee Hill Road pursuant to the Yankee Hill Agreement and that Owner did not participate in, nor contribute Owner's fair share of the cost of the construction of the 24-inch water main to serve the Property. If Owner subsequently desires to be connected or is required to be connected to the 24-inch water main, Owner agrees to pay at the time of connection a fee of $27.50/foot (i.e. equivalent cost of constructing a 6-inch water main) times the number of feet of residential frontage of Lot 46 I.T. along South 14th

Street and/or a connection fee of $30.00/foot (i.e. equivalent cost of constructing an 8-inch water main) times the number of feet of commercial frontage of Lot 45 I.T. along South 14th Street.

Owner understands and acknowledges that the 24-inch water main in south 14th Street is a non-tapable water main. Owner further understands and acknowledges that a tapable water main extension will have to be constructed in the 24-inch water main and a water main will have to be constructed from the tap to provide water service to the property at Owner's sole cost and expense in addition to the above described connection fee for the 24-inch water main in South 14th Street. The size of the tapable water main extension and the water main shall be determined by the City's Department of Public Works.

4. Security. Simultaneous with the execution of this Agreement by Owner, Owner shall provide the City a bond, escrow, or other security agreement, approved by the City Attorney, in the amount of $502.00 to insure contribution for the construction of the South Salt Creek Trunk Sewer referred to in paragraph 2 above.

5. Future Cost Responsibilities. Except as stated herein, it is understood and agreed between the parties that the provision of the above-described municipal infrastructure improvements and the allocation of cost responsibilities therefor in no way limit the right of the City to impose reasonable conditions or to require reasonable additional dedications, contributions, or construction in conjunction with the approval of future zoning requests, plats and dedications, use permits, special permits, planned unit developments, or community unit plans incorporating therein the Property or any portion thereof which has been subject to annexation or rezoning in conjunction with this Agreement. Such future dedications,

contributions and construction may include, but shall not be limited to, local sewers, water mains, paving, trails, detention ponds, storm sewers, or transportation improvements relating to commercial development, including necessary street widening, traffic signals and added turn lanes necessitated, in the opinion of the City, by major commercial development in the area.

6. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns and shall inure to and run with the property.

7. Amendments. This Agreement may only be amended or modified in writing signed by the parties to this Agreement.

8. Further Assurances. Each party will use its best and reasonable efforts to successfully carry out and complete each task, covenant, and obligation as stated herein. Each of the parties shall cooperate in good faith with the other and shall do any and all acts and execute, acknowledge, and deliver any and all documents so requested in order to satisfy the conditions set forth herein and carry out the intent and purposes of this Agreement.

9. Governing Law. All aspects of this Agreement shall be governed by the laws of the State of Nebraska. The invalidity of any portion of this Agreement shall not invalidate the remaining provisions.

10. Interpretations. Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

11. Construction. Whenever used herein, including acknowledgments, the singular shall be construed to include the plural, the plural the singular, and the use of any gender shall be construed to include and be applicable to all genders as the context shall warrant.

12. Relationship of Parties. Neither the method of computation of funding or any other provisions contained in this Agreement or any acts of any party shall be deemed or construed by the City, Owner, or by any third person to create the relationship of partnership or of joint venture or of any association between the parties other than the contractual relationship stated in this Agreement.

13. Assignment. In the case of the assignment of this Agreement by any of the parties, prompt written notice shall be given to the other parties who shall at the time of such notice be furnished with a duplicate of such assignment by such assignor. Any such assignment shall not terminate the liability of the assignor to perform its obligations hereunder, unless a specific release in writing is given and signed by the other parties to this Agreement.

14. Default. Owner and City agree that the annexation and changes of zone promote the public health, safety, and welfare so long as Owner fulfills all of the conditions and responsibilities set forth in this Agreement. In the event Owner defaults in fulfilling any of its covenants and responsibilities as set forth in this Agreement, the City may in its legislative authority rezone the Property to its previously designations or such other designations as the City may deem appropriate under the then existing circumstances, or take such other remedies, legal or equitable, which the City may have to enforce this Agreement or to obtain damages for its breach.

15. Essential Nexus. City and Owner agree that the City has a legitimate state interest in promoting the health, safety, and welfare and providing for the safe and efficient

receipt of wastewater within the public sanitary sewer system and for the provision of water and that an essential nexus exists between the City's above interest and the conditions placed upon Owner under this Agreement. In addition, the City and Owner have made an individualized determination and agree that the conditions placed upon Owner under this Agreement are related both in nature and extent and are in rough proportionality to the projected adverse effects the use of the Property would have on the public sanitary sewer system and water system that serves the Property.

16. Recordation. This Agreement shall be filed in the Office of the Register of Deeds of Lancaster County, Nebraska at Owner's cost and expense.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

THE CITY OF LINCOLN, NEBRASKA
ATTEST: A Municipal Corporation

____________________________ By: ____________________________
City Clerk Don Wesely, Mayor

David W. Fleming Revocable Trust

____
Gretchen Zwetzig, Trustee

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of __________________, 2001, by Don Wesely, Mayor of the City of Lincoln, Nebraska on behalf of the City.

____
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _______________, 2001, by Gretchen Zwetzig, Trustee of the David W. Fleming Revocable Trust on behalf of said Trust.

____
Notary Public

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